

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LARRY AND CYNTHIA BISHOP, *et al.*,
Plaintiffs

v.

CITY OF GALVESTON, TEXAS, *et al.*,
Defendants

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C.A. No. 4:11-cv-04152

JOINT MOTION TO STAY

TO THE HONORABLE MELINDA HARMON:

Plaintiffs Larry Bishop and Cynthia Bishop, George Clark and Deborah Clark, Kris B. Hall, Holly J. Jones, Gary McGregor and Teri McGregor, John Stanford, Jr. and Carol Ms. Severance (collectively, “Plaintiffs”); Defendants Steven C. McCraw, in his official capacity as the Director of the Texas Department of Public Safety (“DPS”), W. Nim Kidd, in his official capacity as Chief of the Division of Emergency Management at DPS, Greg Pekar, in his official capacity as the State Hazard Mitigation Officer at DPS, and Hilda Soper, in her official capacity as an employee of the Division of Emergency Management at DPS (collective, “DPS Officials”); and Defendant City of Galveston, Texas jointly file this Joint Motion to Stay, and respectfully show the Court the following:

1. This case was initially filed on December 1, 2011. On March 1, 2012, Plaintiffs filed their First Amended Original Complaint (Dkt. # 12) wherein they named as additional defendants the DPS Officials. On March 20, 2012, the DPS Officials filed their Motion to Dismiss Plaintiff’s First Amended Original Complaint (Dkt. # 14).

2. A scheduling conference was held on April 3, 2012, wherein the initial Scheduling Order (Dkt. # 16) was entered by this Court.

3. On April 9, 2012, Plaintiffs filed a Second Amended Complaint (Dkt. # 17) and a response to DPS Officials' Motion to Dismiss Plaintiff's First Amended Original Complaint (Dkt. # 18).

4. DPS Officials filed a Motion to Dismiss Plaintiff's Second Amended Complaint (Dkt. # 19) on April 18, 2012, and Plaintiffs filed a response thereto (Dkt. # 20) on May 8, 2012. The DPS Officials' Motion to Dismiss is currently pending before the Court.

5. Due to the dispositive issues raised in the DPS Officials' Motion to Dismiss, the parties deferred conducting discovery pending a ruling by this Court on said motion.

6. On September 24, 2012, Plaintiff filed an Unopposed Motion to Amend the Scheduling Order (Dkt. # 21) to reflect the deferral of discovery. The Court granted the motion and entered an Amended Scheduling Order (Dkt. # 22) on September 27, 2012.

7. On December 3, 2012, Plaintiffs' filed a Second Motion to Amend the Scheduling Order (Dkt. # 24) in light of the parties desire to continue to defer discovery pending a ruling on the DPS Officials' Motion to Dismiss. That Second Motion to Amend is currently pending, but would be rendered moot should this Motion to Stay be granted.

8. In light of the pending matters before the Court, the parties jointly request that the all deadlines in this case be stayed pending a ruling on the DPS Officials' Motion to Dismiss (Dkt. # 19). To proceed with discovery and pre-trial preparations prior to a ruling may result in a waste of judicial resources and subject the parties and this Court to unnecessary costs, expenses and burdens.

9. The requested stay of this case is not being made for the purpose of any undue delay.

10. Counsel for the DPS Officials has conferred with counsel for Plaintiffs and the City of Galveston, who have agreed to join this motion by permission, as indicated below.

Accordingly, the parties jointly request that this Court grant this motion to stay this case pending a ruling on the DPS Officials' Motion to Dismiss (Dkt. # 19), as reflected in the attached proposed order.

Respectfully submitted,

/s/ Kyle Dickson (by permission)

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CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to:

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